

**Joint Special Board Meeting of
Cachuma Operation and Maintenance Board
And
Cachuma Conservation Release Board**

Wednesday, August 2, 2006

held at:

**Cachuma Operation and Maintenance Board Office
3301 Laurel Canyon Road
Santa Barbara, CA 93105**

AGENDA

Facilitated Meeting on COMB/CCRB Reorganization

- 1. Call to Order and Roll Call for COMB and CCRB Boards**
- 2. Adoption of Meeting Notes from July 17, 2006 Joint Special Board Meeting**
- 3. Public Comment (Any member of the public may address and ask questions of the Boards relating to any matter not on the agenda and within the jurisdiction of the Boards.)**
- 4. Continued Discussion of Macro-Level Substantive Issues**
 - ◆ Review of current draft version of Options 2.1 and 2.2
 - ◆ Exploration of points of tentative agreement and unresolved issue areas
 - ◆ Approach for gaining closure on a preferred approach
- 5. Finalization of Meeting Schedule for Remainder of August and September, 2006**
- 6. Next Steps**
- 7. Adjournment**

**Draft Meeting Notes
Joint Special Board Meeting of
Cachuma Operation and Maintenance Board
and
Cachuma Conservation Release Board
Monday, July 17, 2006**

**COMB Office
3301 Laurel Canyon Road
Santa Barbara, CA**

Attending:

Matt Loudon, Improvement District No. 1, Alternate Member
Jan Abel, CCRB President, Montecito Water District
Chuck Evans, Goleta Water District
Robert Lieberknecht, Carpinteria Water District
Das Williams, City of Santa Barbara

Kate Rees, Interim General Manager COMB/CCRB
Ruth Snodgrass, Admin. Secretary, CCRB

Observers:

Charles Hamilton, General Manager, Carpinteria Valley Water District
Chris Dahlstrom, General Manager, I.D. #1
C.E. 'Chip' Wullbrandt, Counsel, Montecito Water District, Carpinteria Water District
Steve Mack, Water Resources Manager City of Santa Barbara

Bruce Wales, General Manager, Santa Ynez River Water Conservation District
Gary Kvistad, ID #1 Counsel
Brett Gray, COMB Operations Supervisor
William Hair, COMB General Counsel
Larry Wilson MWD
Facilitator:
John Jostes

1. Call to Order and Roll Call for COMB and CCRB Boards

The meeting of the COMB Board was called to order by President Matt Loudon at 2:00 p.m., roll call was taken, all were present. The meeting of the CCRB Board was called to order by President Jan Abel at 2:01 p.m. roll call was taken, all were present.

2. Public Comment

Members of the public were provided with an opportunity to provide public comment to the Joint Special Board Meeting. However, no members of the public were present and no comments were received.

3. Continued Discussion of Macro-level Issues and Issues/Options Matrix

The discussion began with an oral report from William Hair, General Counsel to COMB on the appropriateness of using a subcommittee approach to discussing matters related to the South Coast Conveyance facilities. Mr. Hair indicated that the appropriate manner in which to address these matters was to establish classes of voting such that one class of voting members would address matters related to Cachuma Project and storage issues and another class would address conveyance issues.

John Jostes then provided an overview of the current status of ongoing discussions among representatives of the staffs of the various member units as well as of the meetings and

discussions from the Coordinating Committee. He indicated that a revised draft version of Option 2 (named Option 2.1) had been developed through a vetting process with the Coordinating Committee and other selected staff members and counsel. He also noted that an additional Option 2.2 had also been developed in a similar manner to address the option of a merger of COMB and CCRB with ID#1 participating via a contract or participation agreement, rather than as a full member. The Boards then reviewed each of the ten points within Option 2.1, raising questions, hearing perspectives from the Member Units' staff and general counsels, and making detailed comments on each of the points. The Boards also discussed the first four of seven points contained within Option 2.2, also raising questions and offering commentary. Due to time limitations, the remaining three points were not discussed.

The Boards gave direction to the John Jostes, as facilitator, to respond to the various issues raised and work with the Coordinating Committee to develop a third version of the set of two options, provide direction and facilitate discussion at the next meeting in an effort to reduce points of disagreement and generate a preferred option that the Member Units could review and agree upon. It was expected that if agreement could be reached on a preferred option, that the option could then be translated into the appropriate agreement for execution by the Member Units to affect a reorganization that would improve on the current situation.

4. Next Meeting Date

The Joint Boards set August 2, 2006 between 2:00 – 5:00 pm as the next meeting to discuss reorganization issues.

5. Next Steps

John Jostes indicated that he would contact the appropriate individuals and evolve a new version for review prior to the August 2nd meeting date.

Respectfully submitted:

CCRB Secretary to the Board

COMB Secretary to the Board

Approved:

Jan Abel, CCRB President

C. Charles Evans, COMB President

Approved _____

Unapproved _____ 

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OPTION 2.1: REORGANIZATION OF COMB/CCRB INTO A SINGLE ENTITY WITH THE FOLLOWING ASPECTS, ASSURANCES AND CONTINGENCIES:

1. **CCRB to Remain, but in a Dormant State. Fisheries activities transferred to new COMB:** Original CCRB remains an entity but is dormant – reactivation would occur should the need arise to address water rights disputes beyond those of the Cachuma Project or fish releases of water that raise water rights issues beyond those of the Cachuma Project. (This approach would return CCRB to its historic role regarding South Coast water rights issues outside of Cachuma Project water rights; any activities undertaken by CCRB would require CCRB to staff such activities separately, with no sharing by ID#1.) CCRB manager would resign her management role for CCRB and serve as General Manager of new COMB; the employee services agreement would be terminated.

Manager’s activities within new COMB would include Fisheries Management Plan. Fisheries staff, consultant (Entrix) and legal counsel previously serving CCRB only would migrate over to work for new COMB. Consultants (Stetson Engineers) and legal counsel (Best, Best & Krieger) under the advocacy arrangement with ID#1 and currently acting on behalf of CCRB and ID#1 for matters related to the State Water Resources Control Board hearings would require new and revised joint advocacy agreement to jointly participate.

2. **Single General Manager with Specified Duties:** A single General Manager (GM) serves the reorganized COMB and the common interests of all five member units. GM would not accept any responsibilities or legal obligations that could be interpreted as advocating or serving a subset of interests of COMB to the detriment of any single member of the new COMB. General Manager’s and other key staff time commitments to broad task areas are monitored via a tracking system. The existing professional service agreements would need to be voided.
3. **Fish Management Plan (FMP) Activities transferred to the new COMB:** Current FMP activities of CCRB related to the Cachuma Project, the Fish

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Management Plan and those related to compliance with the Biological Opinion (BO) issued by USBR are moved into COMB; projected future activities related to adaptive management for BO compliance are also undertaken by the new COMB. This approach reflects the expected roles of COMB in that COMB has already agreed to undertake these tasks in its role as Lead Agency for the EIR on the Fish Management Plan. A new and revised joint advocacy agreement would be executed to continue joint participation in the State Water Resources Control Board hearing and related matters.

Out-of basin fisheries activities may also be undertaken by the new COMB where linkages to ‘within basin’ fish management plan and BO can be established. This would require unanimous approval by all member units. In addition, all aspects of the state board hearings, including FMP and BO, would also require unanimous approval (or at least ID#1's approval). ID#1 would not be restricted from removing out-of-basin issues from COMB, if so: i) ID#1 will advocate separately, ii) ID#1 would not be prohibited regarding any conflict issue; and, other members then handle this matter thru CCRB.

Any member that wishes to pursue fisheries projects without approval of all members may do separately but shall not use COMB or its staff.

4. **Conveyance Facilities Costs and Administration undertaken by establishing “Classes” of membership in COMB:** All of the costs, administration and accounting of the South Coast conveyance facilities would be assumed by and paid for by a separate class of voting COMB members. One membership class (Class 1), consisting of all five member units would address all issues associated with Cachuma water storage. Another membership class (Class 2) would be composed of South Coast Member Units only and would address conveyance and storage related to the South Coast Member Units only. All actions regarding the South Coast facilities and associated costs will be discussed and acted on through the “conveyance and storage class” structure (Class 2) which could take place either before or after meetings of the Class I members.

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5. **Change in Allocation formula for G&A Costs:** The allocation of G & A costs of the Cachuma Project would be changed to address concerns of ID# 1 that certain activities and their associated costs are not perceived to be in the interest of ID#1. The allocation rate for cost accounting would be changed to reflect a percentage that is established on the basis of actual measured costs for a period of time. The rate charged to ID #1 would be set at the beginning of the fiscal year based upon their percentage of actual G&A cost expenditures from the previous fiscal year and then adjusted at the conclusion of the fiscal year to reflect the actual G&A costs expended during that year. It is expected that this cost allocation change would be in the neighborhood of 10.3 % of approximately 65% of overall G & A costs; however, the preference is for an accounting system that better reflects ID#1's proportion of actual G&A costs. The cost allocation method for G&A would be for the benefit of all the member units and not just ID#1. The goal is to develop an accurate tracking system to ensure that costs are shared on a principal basis. At some point in the cost tracking process, it may be determined that sufficient accuracy has been established to warrant a fixed percentage without annual reassessments. Currently, ID#1 does not participate in the cost of COMB operation, maintenance or construction project related to the "Project Works". Therefore, the tracking system should be in place to assure ID#1 is not assessed for the G&A related to the "project works" O, M & C. This arrangement has been informal and would need to be memorialized.
6. **Clarity on Water Rights Issues:** With regard to water rights issues exclusive of other COMB issues and responsibilities, the new COMB would only be involved in Cachuma Project water rights issues to the extent that they are consistent with the Settlement Agreement between member units and other downstream entities relating to Operation of the Cachuma Project. It is further acknowledged that the new COMB's advocacy efforts would be relative to Cachuma Project permit water rights that all of its member units wish to advocate, and that any member unit has veto power over amendments or successors to that agreement (e.g., Settlement Agreement).

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7. **Pursue Acquisition of Cachuma Contract from CWA:** The new COMB will explore Cachuma Project contract assignment to itself and/or the individual member units instead of to the County Water Agency as priorities and time allow. COMB would approach the Board of Supervisors to seek to have the Cachuma Contract shifted from the County Water Agency.

8. **Decision-Making:** Voting structure and consensus requirements regarding for certain expenditures and other matters for the new COMB will remain the same as for the existing COMB: 2-2-1-1-1, 4 votes and 3 agencies needed for decisions. For projects or programs of \$1million or greater involving all 5 member units, unanimous approval is required. For “project works” projects of \$1million, the four south coast member units unanimous approval is required. The unanimous approval would apply to subsequent cost changes in a project that exceeds \$1 million. A project could not be phased of segmented to circumvent the unanimous vote requirement.

9. **Point of Contact with USBR:** The new COMB serves as the point of contact with the U.S. Bureau of Reclamation for the “project works” or Fish Management Plan activities but does not preclude any member unit as an individual point of contact with USBR for obligations, responsibilities, contractual requirements or general communication related to that member unit or from communicating directly with USBR.

10. **MOU Assumption:** MOU’s with Santa Barbara County Parks regarding surcharge and oak tree propagation would be assigned to the new COMB with the exception of ID#1 which would require separate approval. It is acknowledged that this assignment would not change any of the existing commitments or other service arrangements for water deliver between ID#1 and the County Park.

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OPTION 2.2: PURSUING JOINT INTERESTS UNDER A CONTRACTUAL ARRANGEMENT

1. This option amends Option 2.1 to provide that ID#1 participates via contract or other mutual agreement and is not a member of the JPA. Because of its “non-member” status, ID#1 is a participant without voting rights or veto power. If a disagreement or dispute arises between ID#1 and the new COMB representing the four south coast members, ID#1 would not participate financially and negotiate the matter separately. The class-oriented decision making approach in Option 2.1 would not be needed. COMB assumes the FMP and related activities and contracts with ID #1 in much the same manner as CCRB presently contracts with ID#1 for those projects and activities that ID#1 would participate in.
2. CCRB remains dormant to address water rights and fisheries issues should disputes arise and staffing is provided by South Coast Member Agencies. COMB does not staff CCRB and the COMB GM does not work on CCRB issues consistent with the provisions of Option 2.1.
3. Reorganization to withdraw ID#1 from full membership in COMB would require approval by the U.S. Bureau of Reclamation. If this discretion by USBR were to trigger NEPA review requirements, a lead agency determinations would need to be made and the distribution of costs of environmental review would need to be addressed. A change in the form of an organization or participation in a local JPA agency typically does not require environmental review particularly a federal review. It should be verified by USBR that it has the approval authority of COMB membership or its charge.
4. Current consultant relationships of legal, hydrologic and other experts with the existing CCRB and COMB may need to be reviewed to determine whether it is appropriate to continue such relationships. If so, a new and revised agreements may need to be developed and approved by the appropriate parties. For joint advocacy before the State Water Resources Control Board, these relationships would continue but not expand beyond existing levels of engagement. For other matters, the level or appropriateness of such relationships is uncertain and no

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guarantees of availability exist. Any expansion of services or activities undertaken by the joint legal, hydrologic and other experts would require approval by ID#1.

5. ID #1 would continue to be a 10.31% Member Unit Contractor or an individual contractor for use of the Cachuma Project storage facilities and be responsible for its contractual share of costs of said facilities. If this in reference to the repayment of capital costs of Bradbury Dam and USBR operations and maintenance items, then by the member unit contract and master contract, ID#1 would be obligated to make payment in accordance with its' 10.31% allocated share as a condition for receiving the benefit of project water from USBR. This applies to all member units with individual allocated cost share percentages.

6. Assurances to be provided by ID#1 via the "contract" that their right to receive Cachuma Project water is contingent upon paying its 10.31% of the storage costs that USBR charges and other appropriate USBR water costs. It is perceived here that the new COMB is making water deliveries to ID#1 contingent on payment to COMB. This needs to be clarified. Related to the costs associated with carrying out the Fish Management Plan and future amendments and projects related to storage of water in the Cachuma Project, the delivery of ID#1 project water can not be contingent on payment into the FMP projects or amendments. COMB can not exercise any discretion over water deliveries to any member unit or place conditions. If there is a dispute or disagreement, COMB can not foreclose on ID#1 project water supplies or deliveries. Any project related to storage, would be under the authority of USBR and as such, it is a contract obligation.

ID#1 has no obligation for payment of costs associated with conveyance of water to the South coast. ID#1 will not pay COMB general and administrative costs directly for the "project works". As a FMP contract partner with the member units through the new COMB, ID#1 participation in and approval of projects is similar to option 2.2.3.